

ESTTA Tracking number: **ESTTA674159**Filing date: **05/26/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	GESTION DIANE LANCTOT LTEE		
Entity	Corporation	Citizenship	Canada
Address	5790 Pare Street Montreal, QC H4P2M2 CANADA		

Attorney information	Peter D. Siddoway Myers Bigel Sibley & Sajovec, P.A. 4140 Parklake Avenue, Suite 600 Raleigh, NC 27612 UNITED STATES instructions@myersbigel.com, psiddoway@myersbigel.com, kcarlos@myersbigel.com Phone:919-854-1400
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Registration Subject to Cancellation

Registration No	4299998	Registration date	03/12/2013
Registrant	Njabe, Ivo, N 3255 Justina Terrace, Apt #7 Jacksonville, FL 32277 UNITED STATES		

Goods/Services Subject to Cancellation


Class 025. First Use: 2011/09/02 First Use In Commerce: 2011/09/02
All goods and services in the class are cancelled, namely: Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	3517206	Application Date	03/07/2007
Registration Date	10/14/2008	Foreign Priority Date	NONE
Word Mark	N VO		

Design Mark	
Description of Mark	The mark consists of the letter "N", a raised circle, the letter "V" and the letter "O".
Goods/Services	Class 009. First use: First Use: 2008/05/27 First Use In Commerce: 2008/05/27 Sunglasses Class 018. First use: First Use: 2008/05/27 First Use In Commerce: 2008/05/27 Travel bags Class 025. First use: First Use: 2006/03/00 First Use In Commerce: 2006/11/01 Bathing suits; Belts; Blouses; Boots; Coats; Hats; Jackets; Pants; Polo shirts; Sandals; Scarves; Shirts; Shorts; Socks; Sweaters; T-shirts; Ties; Running shoes

U.S. Application No.	86364301	Application Date	08/12/2014
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	NIVO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2008/05/27 First Use In Commerce: 2008/05/27 Polos, t-shirts, shirts, sleeveless shirts, tank tops et coats, skorts, skirts, capris, shorts, pants, sweaters, cardigans, mocks, shell jackets, jackets, vests, dresses,		

	socks, belts, visors, caps
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Attachments	77124533#TMSN.png(bytes) 86364301#TMSN.png(bytes) 5604_84PetitiontoCancel.pdf(928753 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Peter D. Siddoway/
Name	Peter D. Siddoway
Date	05/26/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GESTION DIANE LANCTÔT LTÉE,)	
)	
Petitioner,)	In the matter of Trademark
)	Registration No. 4,299,998
)	
v.)	For the mark NIVO (Stylized)
)	
N. IVO NJABE,)	Registered on March 12, 2013
)	
Registrant)	Cancellation No. _____

PETITION TO CANCEL

Petitioner GESTION DIANE LANCTÔT LTÉE (hereinafter “Petitioner”) believes that it will be damaged by the continued registration of the stylized mark NIVO (hereinafter “Mark”) shown in U.S. Registration No. 4,299,998 (hereinafter “Registration”), registered on March 12, 2013, by N. Ivo Njabe, an individual (hereinafter “Registrant”). Petitioner hereby petitions to cancel the Registration pursuant to Section 14 of the Lanham Act, 15 U.S.C. § 1064.

1. Upon information and belief, Registrant is an individual residing at 3255 Justina Terrace, Apartment 7, Jacksonville, Florida 32277, and is the owner of the Registration in International Class 25.
2. Registrant claims a date of first use of the Mark on September 2, 2011.
3. Petitioner is the owner of United States Trademark Registration No. 3,517,206 in International Classes 9, 18 and 25, filed on March 7, 2007, and listing a date of first use in commerce November 1, 2006. Petitioner hereby gives notice that, in accordance with Trademark Rule 2.122(d), it will rely on said registration as evidence on

its behalf in this proceeding, and status copies thereof will be introduced into evidence during Petitioner's testimony period.

4. Moreover, Petitioner has used the NIVO trademark in commerce on products in International Class 25 at least as early as May 27, 2008, as set forth in Trademark Application 86/364,301, filed by Petitioner on August 12, 2014. Petitioner's widespread and longstanding use of the NIVO trademark in connection with commercial products has resulted in the NIVO mark acquiring greater distinctiveness and extensive goodwill. The NIVO trademark as used on Petitioner's products is well known and recognized by consumers as identifying such products as being affiliated with or being authorized by Petitioner.

5. Registrant's use of the Mark on products closely related to Petitioner's products – including those in the same International Class – are upon information and belief marketed through similar channels of trade as Petitioner's products. Moreover, Registrant's use of the Mark is likely to cause confusion, mistake, or deception as to the source of origin of Registrant's products such that consumers are likely to believe that Registrant's products are provided by, sponsored by, approved by, licensed by, affiliated with, or in some other way connected to Petitioner.

6. Moreover, the continued existence of Registrant's Registration adversely affects Petitioner's right to continue to use and expand its use of its NIVO trademark.

7. Upon information and belief, Registrant has abandoned its use of the Mark, and specifically has abandoned its use of the Mark in International Class 25, in that it has discontinued use of the Mark with intent not to resume such use.

WHEREFOR, Petitioner believes that it will be damaged by the Registration and prays that this Petition for Cancellation be sustained in favor of Petitioner, that judgment be entered against Registrant and that the Registration be cancelled.

Dated: May 26, 2015

Respectfully submitted,



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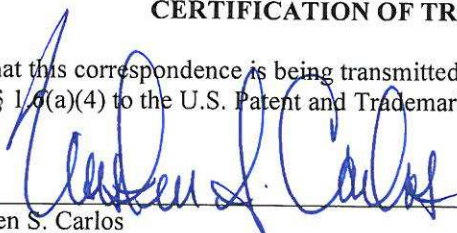
Attorneys for Petitioner

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on May 26, 2015.

Signature: _____

Kirsten S. Carlos



CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on May 26, 2015, I caused a copy of the foregoing **PETITION TO CANCEL** to be served via Federal Express, as follows:

L. Jack Gibney, Esq.
8777 San Jose Boulevard, Suite 502
Jacksonville, Florida 32217

Attorney for Registrant, N. Ivo Njabe



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